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Implementation of resolution 2380 (2017)

Report of the Secretary-General

I. Introduction

1. The present report is submitted pursuant to paragraph 15 of Security Council resolution 2380 (2017), in which the Council requested me to report on the implementation of the resolution, in particular with regard to the implementation of its paragraph 7.

2. The report covers developments since my previous report of 7 September 2017 (S/2017/761) until 31 August 2018. The information and observations herein are based on submissions by Member States, regional arrangements and the United Nations system.

II. Smuggling of migrants and trafficking in persons in the Mediterranean Sea off the coast of Libya

3. Since the issuance of my previous report, men, women and children have continued to die and go missing at sea on their way to Europe. As at 27 August, 1,530 deaths had been recorded in the Mediterranean Sea in 2018. Of those, 1,103 individuals perished along the so-called "central Mediterranean route". Close to 67,100 arrivals to Europe by sea had been recorded in 2018 as at 27 August. In 2017, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) recorded more than 119,300 arrivals in Italy by sea, 91 per cent of whom had departed from Libya. UNHCR noted that in the first eight months of 2018, sea arrivals to Italy had dropped by more than 80 per cent but the rate of casualties had increased: 1 death for every 19 arrivals was recorded, compared with 1 death for every 41 crossed the central Mediterranean Sea during the corresponding period in 2017.

4. The European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) estimates that, from October 2017 to 31 July 2018, roughly 29,785 persons were rescued by various vessels in the central Mediterranean Sea, a substantial reduction from the previous reporting period. Of those, 4,665 were rescued by the operation. According to the operation, vessels operated by international non-governmental organizations still conduct search and rescue operations in the high seas off the coast of western Libya, but in reduced

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numbers in contrast to previous reporting periods. However, rescues by non-governmental organizations still accounted for 34 per cent of all persons saved and taken to Italy in the first six months of 2018.

5. According to the International Maritime Organization (IMO), large-scale migration by sea presents a range of challenges to the maritime sector and seafarers. More than 80 per cent of global trade moves by sea, so that any disruption to the maritime part of the supply chain constitutes a risk to national and regional economies. Despite the welcome increase in Government-funded resources, and the continued activity of vessels from non-governmental organizations, the number of merchant ships involved in rescue operations has remained relatively constant since 2015. In 2017, a total of 416 merchant ships were diverted; of those, 119 were involved in the rescue of 11,350 people and the average number of persons rescued by each merchant ship was 95. In the first six months of 2018, merchant ships rescued 1,329 people. Merchant seafarers continue to bravely perform their duties of rescue, although the presence of untrained and distressed persons on board presents risks to both the seafarers and those they rescue.

6. EUNAVFOR MED operation SOPHIA reported an increase in the use of wooden boats by migrant smugglers during the reporting period. As at 1 August, IOM and UNHCR noted that close to 12,945 persons had been rescued or intercepted by the Libyan coastguard, coastal security and fishermen in the first eight months of 2018. Notwithstanding capacity-building efforts on the ground, the United Nations Support Mission in Libya (UNSMIL) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) documented the use of firearms, physical violence and threatening language by the Libyan coastguard during search and rescue operations in Libyan and international waters. Conditions also remain inadequate to receive and respond to the needs of large numbers of those disembarked in line with international human rights protection standards. At present, people who are disembarked in Libya are automatically detained without due process and face serious human rights violations. As the numbers of disembarked persons in detention in Libya continue to mount, the pressure on those facilities has increased while conditions have deteriorated. The Panel of Experts established pursuant to Security Council resolution 1973 (2011) has previously reported on the involvement of armed groups and criminal networks in migrant smuggling in Libya, and its next report on the subject will be transmitted to the Council no later than 15 September 2018. Mali is another country where armed groups are involved with and benefit financially from the smuggling of migrants. The final report of the Panel of Experts established pursuant to Security Council resolution 2374 (2017) on Mali (see S/2018/581) details the Panel's findings on that issue.

7. According to data from Eurostat for persons arriving in Italy in 2017 from the seven most common origin countries in West Africa (Nigeria, Guinea, Côte d'Ivoire, Mali, Senegal, the Gambia and Ghana), the granting of some form of protection in European Union member States averaged 25 per cent, and among those arriving from Eritrea, Somalia and the Sudan the average was 74 per cent. The routes and the composition of arriving groups remain in flux and include persons in vulnerable situations, and also include high numbers of survivors of sexual and gender-based violence and victims of trafficking. The majority of children arrive unaccompanied.

8. States have taken measures to counter smuggling and trafficking off the coast of Libya and to strengthen search and rescue efforts in the Mediterranean Sea. The measures include the strengthening of border control agencies and border management through capacity-building and training, along with the targeted deployment of naval assets and operations in the Mediterranean Sea and targeted sanctions against six traffickers in Libya. However, it remains difficult to ascertain the combined impact of those measures.

III. Inspection and seizure of vessels off the coast of Libya and related efforts

9. Within the framework of its Common Security and Defence Policy, the European Union carries out the naval operation EUNAVFOR MED operation SOPHIA in the central part of the southern Mediterranean Sea to identify, capture and dispose of vessels and assets used by migrant smugglers. The operation reports that it has disposed of 551 vessels used by suspected smugglers since the beginning of its operations. As of 2018, all European Union member States except Denmark, which has opted out of all cooperation with the Common Security and Defence Policy by default, contribute to the operation by providing naval units, air assets and personnel.

10. The European Union has entrusted the operation, which runs until 31 December 2018, with additional tasks: to set up a monitoring mechanism of trainees to ensure the long-term efficiency of the Libyan coastguard training; to enhance the possibilities for sharing information on trafficking in persons with European Union member States' law enforcement agencies, Frontex and Europol; and to conduct new surveillance activities and gather information on illicit exports of petroleum, including crude oil and refined petroleum products, from Libya, in accordance with Security Council resolutions 2146 (2014) and 2362 (2017). Council resolution 2362 (2017) extended the measures aimed at preventing illicit exports of crude oil from Libya to include refined petroleum products, the smuggling of which also facilitates migrant smuggling and trafficking in persons.

11. Although the operation's mandate does not comprise a search and rescue operation, all of its assets are bound by international law to respond to incidents pertaining to the International Convention for the Safety of Life at Sea and have the duty to disembark survivors and deliver them to a place of safety. The operation reports that it complies with the principle of non-refoulement, as contained in the Convention relating to the Status of Refugees, as well as international human rights and humanitarian law. Therefore, no person rescued or apprehended by the operation has been handed over to the authorities of non-European Union member States or disembarked in non-European Union member States.

12. On 14 December 2017, Libyan authorities issued a communication to IMO informing it that the Libyan Government of National Accord had declared the Tripoli flight information region, which had been communicated to and approved by the International Civil Aviation Organization, to be the "Libyan Search and Rescue Region". Moreover, the Region was publicized by IMO on the Global Integrated Shipping Information System website in June 2018. The Italian coastguard is leading, within the framework of the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, a European Union project to assist the Libyan authorities in establishing a fully operational Maritime Rescue Coordination Centre in order to efficiently coordinate search and rescue operations within the Libyan Search and Rescue Region. The full operational capability of the Libyan Centre is expected to be achieved by 2020.

IV. Support to Libya and related efforts to combat smuggling and trafficking

13. EUNAVFOR MED operation SOPHIA has helped to apprehend more than 151 suspected migrant smugglers and human traffickers since the beginning of its operations. On 14 May 2018, the Council of the European Union adopted a decision allowing for the establishment of a pilot crime information cell within the operation to facilitate information-sharing among agencies that are part of the European

Union's Justice and Home Affairs network, European Union member States, Frontex and Europol on human smuggling and trafficking, the implementation of the United Nations arms embargo on Libya and crimes relevant to the security of the operation itself. The aim is to optimize the use of information collected in order to prevent, investigate and prosecute crime.

14. On the margins of the fifth African Union-European Union Summit, held in Abidjan on 29 and 30 November 2017, a joint African Union, European Union and United Nations task force on migration was established to save and protect the lives of migrants and refugees along migration routes, and in particular inside Libya, by accelerating the assisted voluntary returns to countries of origin and the resettlement of those in need of international protection. The task force has facilitated, with support from the European Union, 26,000 voluntary humanitarian returns through IOM, and 1,600 people in need of international protection have been evacuated from detention through the UNHCR emergency transit mechanism in the Niger and to other countries for other solutions, including resettlement.

15. On 29 May 2018, the European Commission announced new programmes and projects worth €467 million under the Emergency Trust Fund for Africa in the Sahel/Lake Chad region and the Horn of Africa to assist vulnerable migrants and refugees and address the root causes of irregular migration. Funds were to be dedicated towards improving employment opportunities, especially for youth. Some €10 million would support accelerating resettlements under the UNHCR emergency transit mechanism and €60 million would go to support voluntary return and reintegration assistance provided by IOM.

16. The current mandate of the European Union Integrated Border Management Assistance Mission in Libya runs until 31 December 2018. The Mission and specialized agencies of the United Nations are now established in Tripoli and engage in law enforcement, criminal justice and border management in support and at the request of the Libyan Government of National Accord. The Mission, with support from EUNAVFOR MED operation SOPHIA, is assisting in the drafting of a white paper on border security and management reform in Libya, which is being led by the Libyan authorities. A European Union maritime sub-working group on Libya will help shape the objectives, needs and requirements of the Libyan coastguard and navy, while the Libyan General Administration for Coastal Security is currently receiving capacity-building support from the Mission.

17. Cooperation has also been enhanced between EUNAVFOR MED operation SOPHIA and several European Union agencies, such as Frontex, Europol and Eurojust, as well as international and regional organizations such as UNSMIL, UNHCR, the United Nations Office on Drugs and Crime (UNODC), IOM, the Organization for Security and Cooperation in Europe, the International Criminal Police Organization (INTERPOL), the North Atlantic Treaty Organization, the Italian National Anti-Mafia and Counter-Terrorism Prosecutor's Office and the International Criminal Court. Dedicated projects under the European Union Emergency Trust Fund for Africa focus on providing support to both civilian and military coastguards of Libya in several areas of border management. The whole package is managed by a steering committee tasked with managing a programme of support to integrated border and migration management in Libya. The programme, which is led by the European Commission and the Italian Ministry of Interior, aims to find synergies through various European Union actors and member States and to coordinate all efforts by European Union and national institutions involved in capacity-building efforts in alignment with Security Council resolution 2380 (2017).

18. The prosecution of smugglers and traffickers is ensured by the Italian judicial authority ashore, once rescue operations have been completed and following the

return to a port of safety. To consolidate that process further, EUNAVFOR MED operation SOPHIA and the Italian Anti-Mafia and Counter-Terrorism Prosecutor's Office have set up the first European Observatory on migrant smuggling and human trafficking. The project is aimed at sharing data and information in order to achieve a deeper understanding of the smugglers' business model through a joint analysis of documents provided by military intelligence and judicial authorities. The Observatory has made it possible to match information collected within the operation with more than 600 records collected by Italian prosecutors. The initial analysis of data up to 30 September 2017 concerning 28 suspected smugglers/traffickers apprehended by the operation showed that 13 smugglers/traffickers were convicted and sentenced to between 3 and 10 years in prison and fined a total of €24 million; 6 were brought to trial; 1 case, in which the smuggler/trafficker was under the age of 18, was transferred to the Italian Public Prosecutor's Office at a court for minors in Catania, Italy; 3 were discharged after their cases were dismissed; 1 was acquitted; and 4 were not entered in the register of suspects. For the remaining smugglers/traffickers apprehended by operation, information from the relevant competent prosecutors' offices was not released owing to ongoing investigations.

19. EUNAVFOR MED operation SOPHIA supports Libyan capacity-building through training and monitoring to better tackle migrant smugglers and human traffickers, and other criminal activities. The capacity of the Libyan coastguard and navy is being strengthened through training coordinated and delivered by the operation with the support of Greece, Italy, Malta and Spain, as well as the European Union, UNHCR, IOM, UNSMIL and non-governmental organizations. The training is focused on coastguard and law enforcement functions, and includes dedicated modules on human and refugee rights and gender awareness. Since the beginning of training at the end of 2016, the operation has trained 237 personnel.

20. The operation reports that it undertakes a vetting process of the Libyan trainees with European Union member States and law enforcement agencies, and monitors training provided to the Libyan coastguard and navy. The vetting process has been agreed with the Libyan coastguard and navy, and is conducted with the cooperation of Europol, the INTERPOL National Central Bureau in Rome, the International Criminal Court, Frontex and State security agencies. The vetting partners carry out a cross-checking of the information and data provided by the Libyan side with the information available in their databases. The cross-checking ensures that the selected candidates fulfil the criteria required to participate in the training, including the absence of any criminal records or suspicions of support to violent extremist organizations. Monitoring of the Libyan coastguard and Navy focuses on understanding their ability to perform their assigned missions with professionalism. Monitoring does not include the observation of migrants' conditions ashore, which is not within the operation's mandate.

21. According to EUNAVFOR MED operation SOPHIA, the Libyan coastguard and navy have increasingly taken an active role in fighting illicit activities and saving lives at sea as a result of the training and additional equipment provided by the European Union and the bilateral efforts of some States, in particular Italy, which provided four patrol boats and maintenance support by the Italian Navy.

22. The United Nations Children's Fund (UNICEF) supported the development of training materials for operation staff. On some ships containing migrants intercepted at sea, UNICEF partners provided children with information, psychosocial support and health and hygiene care. UNICEF recommends providing training on the Convention on the Rights of the Child to border officials, police and military forces who are in contact with migrant women and children.

23. UNSMIL continues to monitor human rights violations, including against migrants and refugees in Libya, and raises its concerns with relevant Libyan authorities, including the Libyan coastguard and navy and the Libyan Directorate for Combating Illegal Migration. UNSMIL continues to strongly advocate for an end to human rights violations, the dismantling of criminal networks and the pursuit of accountability for all violations and crimes. The United Nations continued its efforts towards the implementation of the human rights due diligence policy with a view to mitigating the identified risks of grave violations of international humanitarian law, human rights law or refugee law being committed by recipients of United Nations support. To that end, the United Nations system in Libya has adopted risk assessments and mitigating measures aimed at preventing human rights violations and increasing its monitoring of compliance with international law and standards to strengthen accountability for those responsible for violations.

24. UNHCR reports that there are 54,644 registered asylum seekers and refugees, primarily from the Syrian Arab Republic, Iraq and Eritrea, living in Libya. Owing to the limited access available to UNHCR, its ability to undertake actions to protect refugees activities is restricted. UNHCR is working towards finding solutions outside Libya for those who have international protection needs, and especially those who are the most vulnerable, through resettlement. Requests for the resettlement of 482 refugees directly out of Libya have been submitted, 70 of whom have been resettled to third countries. Some 1,536 refugees have been evacuated to the UNHCR evacuation transit mechanism in the Niger: 392 have been resettled to third countries and 10 have been transferred to the emergency transit centre in Romania. In addition, 312 refugees were evacuated to Italy directly from Libya. UNHCR is also advocating for humanitarian evacuations to additional countries. UNHCR, through community development centres in Tripoli, registers asylum claims and provides documentation, protection and humanitarian assistance to persons of concern.

25. UNHCR undertakes regular capacity-building activities with the Libyan authorities on international refugee law. Together with IOM, a set of standard operating procedures for the Libyan coastguard and navy has been developed to respond to the needs of refugees and migrants upon disembarkation. UNHCR further advocates for the establishment of a registration system by the Libyan authorities to allow for the recording of the presence, including basic information, of those rescued or intercepted by the Libyan coastguard and navy.

26. IOM is currently working closely with the Libyan ministries and other main actors on two key components to counter trafficking in persons: the humanitarian component aims at providing effective prevention and protection measures by addressing the immediate and long-term humanitarian needs of victims of trafficking and persons at risk and developing systematic and holistic measures through the strengthening of humanitarian policy, programming and operational frameworks; the development component aims to establish national mechanisms to address immediate and long-term response needs through promoting the development of national legal and policy frameworks, strengthening institutional capacities and structures and mobilizing and empowering communities.

27. The Libya Humanitarian Response Plan for 2018 seeks $312.7 million to fund its humanitarian and protection response. The Plan, which targets 940,000 people in need across Libya, is only 22.3 per cent funded as of early August 2018.

V. International efforts to combat smuggling of migrants and trafficking in persons

28. The United Nations cooperates with and supports the efforts of Member States to counter the smuggling of migrants and trafficking in persons. The General Assembly has continued to provide policy guidance, in its annual resolutions on oceans and the law of the sea, related to rescues at sea, the smuggling of migrants and trafficking in persons. The New York Declaration for Refugees and Migrants, adopted by the General Assembly on 19 September 2016, committed Member States to developing a global compact for safe, orderly and regular migration by 2018. The global compact, which includes actions aimed at combating smuggling and trafficking, will be adopted at an intergovernmental conference in Morocco on 10 and 11 December 2018.

29. The New York Declaration also invited UNHCR to engage with States and to consult with all relevant stakeholders on the development of a global compact on refugees. As requested by the General Assembly, the United Nations High Commissioner for Refugees submitted the proposed global compact on refugees together with his annual report to the General Assembly in August 2018. The proposed compact calls for a strengthening of international efforts to prevent and combat smuggling and trafficking in persons, and for support to be provided to refugee hosting States with regard to identifying and referring victims of trafficking to appropriate processes and procedures, including for the identification of international protection needs and/or victim support.

30. In its resolution 2388 (2017), the Security Council condemned in the strongest terms human trafficking in areas affected by armed conflict and reiterated the connection between trafficking in persons, sexual violence and terrorism and other organized criminal activities, which can prolong and exacerbate conflict and instability or intensify its impact on civilian populations. It called upon Member States to enhance the capabilities of professionals interacting with persons forcibly displaced by armed conflict, including refugees, such as law enforcement, border officials and the criminal justice system personnel of refugee and displaced persons reception facilities, to identify victims or persons vulnerable to trafficking and to adopt gender- and age-sensitive assistance policies, including adequate psychosocial support and health services, regardless of their participation in criminal investigations and proceedings.

31. On 7 June 2018, the Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya listed six individuals as subject to the assets freeze and travel ban measures under the Libya sanctions regime. The six individuals were listed under the sanctions designation criteria contained in Council resolutions 1970 (2011), 2174 (2014) and 2213 (2015). It marked the first time that migrant smugglers and human traffickers had been placed on a Security Council sanctions list.

32. In its decision of 27 June 2018, on the security and migration situation in Africa, the Peace and Security Council of the African Union condemned human trafficking and the smuggling of migrants, transnational organized criminal networks and their accomplices. It requested the member States of the African Union to consolidate efforts and to increasingly coordinate and cooperate towards fostering and strengthening existing mechanisms for better migration governance and management. It further requested that the African Union Commission accelerate the establishment of a regional operational centre in Khartoum for the sharing of information on human trafficking and migrant smuggling, as well as the establishment and operationalization of a continental study centre for migration, research and data in Mali and an observatory for migration in Morocco, in order to provide a platform for

sharing data and information among member States on migration in the continent to enhance the governance and management of migration.

33. UNODC has supported the strengthening of the transnational response to the smuggling of migrants and maritime crime in East, North and West Africa. In 2018, 14 law enforcement officers and 8 prosecutors from the Libyan Directorate for Combating Illegal Migration and the Libyan Public Prosecutor's Office were trained on identifying, investigating and prosecuting cases of trafficking and smuggling of migrants, while ensuring assistance and protection to trafficking victims and smuggled migrants. The training involved advanced techniques and the use of forensic tools relevant to the Libyan context during investigations. UNODC is partnering with the European Union, in the context of the European Union Emergency Trust Fund for Africa, on a regional intervention that aims to effectively address the dismantling of criminal networks involved in migrant smuggling and human trafficking in Egypt, Libya, Morocco and Tunisia. The comprehensive intervention is aimed at helping relevant law enforcement agencies and criminal justice practitioners in the North African countries to adopt a qualitative enforcement approach that focuses on dismantling criminal networks beyond low-level criminal operatives.

34. Ongoing monitoring in detention centres by UNSMIL has documented continued human rights violations and abuses and a lack of protection and assistance for migrants, including those who have suffered abuses at the hands of smugglers and traffickers. Using its limited capacity, UNSMIL is attempting to conduct fact-finding and human rights monitoring missions in Libya and to countries of origin and transit along the main routes through Libya. One such visit was conducted in June 2018, and a report based on interviews with migrants who have been returned from Libya, or who have continued their journeys after having encountered various violations of their human rights while in the country, is forthcoming.

35. OHCHR has developed training modules on human rights-compliant border governance and is currently rolling out a series of capacity-building activities in collaboration with border authorities in various regions. OHCHR conducts fact-finding and human rights monitoring missions on an ongoing basis and produces reports based on interviews with migrants. The United Nations High Commissioner for Human Rights has in various statements denounced the practice of mandatory detention of migrants. On 8 September 2017, he stressed that returning people to detention centres where they are held arbitrarily, and face torture, rape and other serious human rights violations is a clear breach of the international law principle of non-refoulement.

36. IMO maintains that the international legal framework for the rescue of persons at sea is sound, but it did not envisage, nor was it designed for, large movements of refugees and migrants by sea. Although IMO, UNHCR and the International Chamber of Shipping have developed guidance on rescue and on large-scale rescue operations at sea, IMO member States maintain that it is critical to manage the situation ashore before migrants are subjected to danger at sea, and to address the root causes of unsafe mixed migration by focusing on creating conditions for increased employment, prosperity and stability by enhancing the maritime sector and sustainable blue economy in developing countries.

37. At the operational level, EUNAVFOR MED operation SOPHIA hosted two editions of the Shared Awareness and Deconfliction in the Mediterranean forum. The most recent forum was held in Rome on 19 and 20 June 2018 and attended by 242 representatives from 37 countries and 127 organizations, including UNHCR, UNODC, IOM, OHCHR and non-governmental organizations. The premise of the forum is to enhance understanding and share best practices on a biannual basis among

stakeholders that are directly involved in the situation in the central Mediterranean Sea, irregular migration or stabilizing the situation in Libya.

VI. Key issues

38. Throughout their journey, men, women and children are at high risk of human rights abuses, including trafficking, extortion, arbitrary detention, torture, forced labour and sexual abuse. While trafficking and smuggling are both prevalent in the context of migration, they constitute two distinct phenomena. Migrants and refugees may become trafficked during their journey, and the particular circumstances in Libya (including the criminalization of irregular entry, stay and exit without distinction between migrants, refugees and victims of trafficking, the use of automatic detention of undocumented migrants and refugees and the lack of access to justice, assistance and legal pathways) render many of them vulnerable to human rights violations, sexual violence, exploitation and abuse. The risks are equally acute on land as at sea throughout the journey across Libya, but they also exist in other countries, as refugees and migrants transit to Libya and Europe.

39. According to IOM, the Libyan Directorate for Combating Irregular Migration runs 52 detention centres, but not all are functional. An estimated 16 centres are currently considered operational after the Directorate recently reported the closing of 25 detention centres, while several others are currently non-functioning or under maintenance. Around 8,000 individuals are currently held in those centres, roughly half of whom are from the seven nationalities that UNHCR is authorized by the Libyan authorities to register as "persons of concern" in Libya. More than 680,000 non-nationals reside outside the context of detention. Directorate-run detention centres do not operate in line with Libyan law or international standards. According to UNHCR, conditions are substandard in terms of shelter, nutrition and sanitation and subject to further deterioration as a result of severe overcrowding linked to an increase in the number of people being intercepted, rescued and disembarked in Libya. Torture and other ill-treatment, sexual and gender-based violence, forced labour and exploitation by guards are frequently documented. Women are held without female guards and unaccompanied children are held with adults. Meaningful access by international organizations is ad hoc and often difficult to obtain.

40. UNSMIL continued to observe and report on conditions of detention in centres in Tripoli and surrounding areas. Directorate-run detention centres for migrants in the east and south of the country could not be visited by UNSMIL owing to the prevailing security situation and access restrictions in those areas. Since April 2018, the required administrative procedures for the approval of visits have also limited UNSMIL access to detention centres in the west. IOM, UNHCR and other humanitarian actors advocate for the closure of all detention centres and for finding alternatives to detention, including safe shelters.

41. The work of UNHCR in Directorate-run detention centres consists of the provision of medical assistance and humanitarian relief to detainees and advocacy for release from detention. UNHCR is in the process of finalizing arrangements for a transit and departure facility in Tripoli for people in need of international protection. The facility was developed with the Ministry of Interior and aims to facilitate and accelerate the process of transferring vulnerable refugees to third countries through resettlement, family reunification or evacuation to UNHCR-run emergency facilities in other countries, or to facilitate voluntary repatriation. The facility is likely to host 1,000 such individuals by the end of 2018.

42. Many refugees and migrants face exploitation, abduction, forced labour, extortion, torture, other violence or death while in Libya. Some have reported being

held for ransom, or being forced into bonded labour shortly after arrival in Libya by persons working with the smuggler who transported them across the desert. Torture is reportedly commonly used as a means of extracting payment from those held for ransom. Similarly, others have reported being kidnapped for ransom while in Libya and subjected to torture. Refugees and migrants have also reported sexual violence against women and girls, and sometimes men and boys, by armed persons holding them against their will. In addition, women have been reported to be forced into prostitution and men forced into labour. An unknown number of migrants are killed or left to die in the desert on the way to their destination. UNSMIL documented cases of migrants who were attacked while travelling inside Libya, including by rival smugglers or unidentified armed groups.

43. The precarious situation of migrants and refugees in Libya is aggravated by the prevailing armed conflict and general insecurity, while efforts towards national reconciliation continue. The lack of effective control by central Government institutions over large swathes of Libyan territory curtails the ability of the State to restore the rule of law, enforce border control and pursue and dismantle criminal networks involved in smuggling or trafficking. Criminal networks and armed groups are in a position to exploit the security situation to secure revenues from illegal business. The fragile state of law enforcement agencies makes Libyan institutions vulnerable to corruption, with private individuals enriching themselves during various stages of the migrant and refugee journeys, and in particular when migrants and refugees are held in detention. In the light of the volatile security situation in general and the particular protection risks for non-nationals, including detention in substandard conditions, and the documented abuses against asylum seekers, refugees and migrants, OHCHR, UNHCR, and UNSMIL do not consider that Libya meets the criteria for being designated as a place of safety for the purpose of disembarkation following rescue at sea. They have urged all States to suspend forcible returns to Libya, including Tripoli, until the security and human rights situation improves considerably.

44. As noted in my previous report (S/2017/761), Libya is still not party to the 1951 Convention relating to the Status of Refugees. It is, however, a signatory to the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. Despite that, it has yet to adopt asylum legislation or establish asylum procedures. Libya is also a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, although it has not reported to the Committee on Migrant Workers since ratification, and its initial report has been due since 2005. Under Libyan law, all irregular entry, stay or departure is criminalized.

45. The Committee against Torture has stressed that State parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should take all necessary legal, political and diplomatic measures to ensure that any cooperation and/or support that they may provide under bilateral or regional migration management agreements to Libya is consistent with the purposes of the Convention and the absolute prohibition of torture, as well as with their obligations under international human rights and refugee law.

VII. Observations

46. I would like to commend the efforts of the brave men and women engaged in search and rescue operations in the Mediterranean Sea, including the personnel of EUNAVFOR MED operation SOPHIA, national navies and coastguards, merchant vessels and vessels of non-governmental organizations. I note with concern that

although the absolute number of arrivals in Europe has decreased, the relative number of deaths in the central Mediterranean Sea has gone up in the past year. Durable solutions will necessitate continued efforts to engage with Libyan authorities as well as greater solidarity at the European and international level. I am concerned that the space for refugee protection might be shrinking as human rights protection is eroding. While recognizing that Member States have the right to manage their borders and the right to define their own migration policies, I strongly appeal to them to do so in a way that is sensitive to the protection of migrants and refugees and that fully respects applicable international law and best practices. I appeal to all States in the Mediterranean region and beyond to cooperate in that regard.

47. I recall the 2004 amendments to the International Convention for the Safety of Life at Sea and the International Convention on Maritime Search and Rescue pertaining to the duty to coordinate and cooperate in order to disembark survivors and deliver them to a place of safety as soon as reasonably practicable. Refusals and delays of disembarkation may pose serious risks to the physical and mental health of refugees and migrants, and also to the rescuers. I call upon all States concerned to facilitate the rapid disembarkation of rescued people in a place of genuine safety, and to develop more predictable cooperative arrangements for doing so. In that regard I note the joint IOM/UNHCR proposal for a regional cooperative arrangement ensuring predictable disembarkation and subsequent processing of persons rescued at sea. All search and rescue activities, whether conducted by the Libyan authorities or other actors, should have as their primary objective the saving of lives and the protection of the safety of people in distress. There is a need to enhance mechanisms for adequate and swift identification and the referral of rescued people upon disembarkation to ensure that all protection needs under international refugee and international human rights law are individually and adequately assessed. Disembarkation arrangements need to ensure that rescued refugees and migrants are taken to a place where they will be protected against serious human rights violations, and where those in need of international protection will have access to it.

48. While the number of arrivals in Europe has decreased, the humanitarian and human rights situation of refugees and migrants in Libya remains dire. It stands to deteriorate further as an increasing number of people are held in detention, owing to a greater number of interceptions at sea and the growing closure of the Mediterranean Sea for migrant departures. I am concerned by the long-term psychological and physical injuries inflicted on refugees and migrants subjected to harsh conditions and ill-treatment. Children should never be detained for immigration purposes, and no one should be arbitrarily detained. Immigration detention should be a measure of last resort. Given the practice of automatic detention of migrants, asylum seekers and refugees after disembarkation, focus must also be placed on creating alternatives to detention, as well as addressing the conditions in detention, which have been documented as extremely difficult and must be significantly improved. A system of registration, in accordance with recognized international principles and standards, to account for the whereabouts of detained individuals must be put into place as a matter of priority. At the same time, procedures should be developed that allow the detained a right to a fair trial and access to justice.

49. I am deeply concerned about reports from UNHCR that many of those who arrive by sea have experienced sexual and gender-based violence during their journeys, including while in detention. Furthermore, the number of women and girls, especially those who originated from Nigeria and other sub-Saharan countries, who may be victims of trafficking and sexual exploitation increased significantly in 2016 and 2017. Guidelines for the identification and referral of victims and potential victims of trafficking have been jointly developed by UNHCR and the Italian authorities on asylum procedures. Human trafficking is a vile crime that feeds on

inequality, instability and conflict. The United Nations is committed to advancing action to bring traffickers to justice while protecting and supporting their victims, and to preventing sexual and gender-based violence in all its forms.

50. Support to Libya with regard to combating the smuggling of migrants and trafficking in persons is welcome and needs to ensure respect for human rights. All actors, including the Libyan coastguard and navy, should comply with human rights obligations, including in interactions with persons in need of assistance at sea and cooperation with other vessels engaged in rescue operations. In that regard, I would like to reiterate that States should refrain from handing over individuals in their custody or control to State or non-State actors whenever such transfer entails a known risk that the individual will likely be subjected to human rights violations by those actors. States should refrain from returning to Libya any third-country nationals intercepted at sea and should ensure that those in need of international protection are able to access fair and effective asylum procedures under international human rights law upon disembarkation. Likewise, States should not — through their search and rescue coordination efforts, their provision of material support or otherwise — contribute to bringing about a course of events by which individuals are transferred to places where they face risks of torture, ill-treatment or other serious human rights violations or are denied access to international protection if needed. Protection and human rights monitoring mechanisms for refugees and migrants need to be further reinforced.

51. The United Nations system, through the implementation of the 2030 Agenda for Sustainable Development and a focus on prevention, is contributing to addressing root causes that compel people to move on a large scale. A global compact on refugees and a global compact for safe, orderly and regular migration, to be adopted in 2018, are the result of broad support among Member States on the importance of finding human rights-based and gender-responsive sustainable solutions to the challenges posed by human movements and of reaping the benefits of those solutions. Some of the objectives of the compacts are to strengthen international cooperation against smugglers and human traffickers, to prevent, combat and eradicate trafficking in persons in the context of international migration and to protect the victims. I therefore appeal to all Member States and regional organizations to continue their cooperation in pursuit of those efforts.